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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/506,477	09/01/2004	Michael Weisser	870-003-174	3038

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EXAMINER

DWIVEDI, VIKANSHA S

ART UNIT	PAPER NUMBER
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3746

MAIL DATE	DELIVERY MODE
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09/05/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/506,477

Applicant(s)

WEISSER, MICHAEL

Examiner

Vikansha S. Dwivedi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 13-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Saito 5,979,541.

Saito discloses in figure 4 a fan, comprising: external-rotor motor, 7, having an internal stator 6 and an external rotor separated therefrom by an air gap as seen in Figure 4 between 62 and 74; a bearing support tube 35 mounted on a base 31, the internal stator 6 being mounted on the support tube 35; and a pot-shaped part 62 having one end connected to said base 31, forming a substantially fluid-tight annular space enclosing said internal stator 6, and having a wall (wall of 62) which extends in the manner of a canned motor through said air gap between the internal stator 10 and the external rotor; wherein an end of said bearing support tube 35 which is remote from said base 31 extends to a portion 62 of said pot-shaped part and forms a substantially fluid-tight connection therewith; wherein an end of said bearing support tube 35 which is remote from said base 31 extends to a portion 61 of said pot-shaped part 62 and forms a substantially fluid-tight connection therewith; wherein the base 31 forms a substantially fluid-tight connection with a fan housing 2 (Figure 4); wherein the pot-shaped part 62 is

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integrally formed with the housing 2 of the fan; wherein the base 31 connected to the bearing support tube 35 is integrally formed with the housing 2 of the fan.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 5, 15 and 17 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Saito.

The determination of patentability in a product-by-process claim is based on the product itself, even though the claim may be limited and defined by the process. That is, the product in such a claim is unpatentable if it is the same as or obvious from the product of the prior art, even if the prior product was made by a different process. In re Thorpe, 777 F.2d 695, 697, 227 USPQ 964, 966 (Fed. Cir. 1985). A product-by-process limitation adds no patentable distinction to the claim, and is unpatentable if the claimed product is the same as a product of the prior art.

There is no criticality or unexpected or non-obvious advantage over choosing ultrasonic welding/ adhesion/welding over the other. The applicant's specification does not state this limitation as serving any advantage or particular purpose or solving any stated problem. The prior art reference could have been modified by using ultrasonic welding/

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adhesion/welding to put the parts together without changing any significant functional feature of the invention and is not a critical aspect of the claimed invention or the prior art.

Claims 6-12, 16, 18 and 19 rejected under 35 U.S.C. 103(a) as being unpatentable over Saito in view of Yokozawa et al. 5,650,678 and in further view of Blumenberg 5,650,676.

Saito teaches the claimed invention substantially except for explicit teaching for a spacer and retaining element. Yokozawa discloses a bearing holder for a motor wherein a bearing support tube 4 is formed with a recess shown in figure 1 next to 4 in which a spacer col. 2, ll. 52-60, a retaining element 16 for securing the shaft 14, and a plurality of ball bearings 12 are provided; wherein said recess shown in figure 1 next to 4 of the bearing support tube 4 is configured as a blind bore; wherein the recess shown in figure 1 next to 4 of the bearing support tube 4 is so configured, at its closed end; wherein the rotor is configured as an external rotor with a rotor bell 13 onto which a rotor shaft 14 is secured; between the rotor bell 13 and an inner ring of one of the ball bearings around 12, a spring 15 is provided, which is compressible during assembly, placed in the recess of the bearing support tube 4 into a circumferential groove formed on the rotor shaft 14; wherein the motor is an electronically commutated motor (brushless DC motor) whose rotor 13 has a rotor magnet 18 and has a stator 8 with a stator lamination stack, see 8 figure 1, the stator being arranged, at least partially, radially inside the rotor magnet 18; wherein the rotor 13 is arranged substantially in magnetic equilibrium relative to stator lamination stack, in order to reduce or avoid any axially directed

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magnetic force between rotor 13 and stator 8; wherein the rotor 13 has a shaft 14 which is axially fixed by a securing ring 16 which engages into a circumferential groove of the shaft 14. It would have been obvious to one of ordinary skill in the art to modify Saito in view of Yokozawa to make the assembly steps easier and to reduce noise Col. 6, ll. 34-47. Saito in view of Yokozawa does not teach a retaining clip. Blumenberg provides teaching for a retaining clip 57 that is used to put two parts of the motor housing together as seen in Figure 1. It would have been obvious to one of ordinary skill in the art to modify Saito in view of Yokozawa further in view of Blumenberg to obtain a simple assembly that is accurate and pre-centered Col. 3 ll. 11-26.

Response to Arguments

Applicant's arguments filed 6/4/2007 have been fully considered but they are not persuasive. Saito discloses a ***substantially fluid tight*** annular space as noted by the applicant that fluid ***may pass*** to the inside. It should be clear that Saito does not disclose a fluid tight space but it discloses a fan, comprising: external-rotor motor, 7, having an internal stator 6 and an external rotor separated therefrom by an air gap as seen in Figure 4 between 62 and 74; a bearing support tube 35 mounted on a base 31, the internal stator 6 being mounted on the support tube 35; and a pot-shaped part 62 having one end connected to said base 31, forming a substantially fluid-tight annular space enclosing said internal stator 6, and having a wall (wall of 62) which extends in the manner of a canned motor through said air gap between the internal stator 10 and the external rotor; wherein an end of said bearing support tube 35 which is remote from

said base 31 extends to a portion 62 of said pot-shaped part and ***forms a substantially fluid-tight connection therewith***; wherein an end of said bearing support tube 35 which is remote from said base 31 extends to a portion 61 of said pot-shaped part 62 and forms a substantially fluid-tight connection therewith; wherein the base 31 forms a substantially fluid-tight connection with a fan housing 2 (Figure 4); wherein the pot-shaped part 62 is integrally formed with the housing 2 of the fan; wherein the base 31 connected to the bearing support tube 35 is integrally formed with the housing 2 of the fan.

With regard to applicant's remarks submitted on 8/27/2007, Examiner never requested INFORMATION PURSUANT TO 37 CFR 1.105 (a) (I) (viii), Examiner called applicant's representative and proposed changes to make claims allowable which the applicant's representative denied.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vikansha S. Dwivedi whose telephone number is 571-272-7834. The examiner can normally be reached on M-F, 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on 571-272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Vikansha

VSD

Anthony Stashick

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